

SERVED: March 9, 1993

NTSB Order No. EA-3811

UNITED STATES OF AMERICA
NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D.C.
on the 21st day of February, 1993

_____)	
JOSEPH M. DEL BALZO,)	
Acting Administrator,)	
Federal Aviation Administration,)	
)	
Complainant,)	
)	Docket SE-10165
v.)	
)	
ZACHARY S. STROUPE,)	
)	
Respondent.)	
_____)	

OPINION AND ORDER

Respondent appeals from the oral initial decision of Administrative Law Judge Joyce Capps, issued at the conclusion of an evidentiary hearing on October 22, 1990.¹ The law judge affirmed an order of the Administrator revoking respondent's mechanic certificate with a powerplant rating for an alleged logbook falsification based on an allegedly faulty engine

¹ A copy of the decision, an excerpt from the transcript, is attached.

overhaul he performed in March of 1988.² Respondent also had a past history of FAR violations.³ The Board now affirms the Administrator's Order and the initial decision of the law judge.

The Administrator's Order of Suspension alleged, in pertinent part, the following facts and circumstances concerning the respondent:⁴

1. At all times material herein you were and are the holder of Mechanic Certificate No. 242215918 with a powerplant rating.
2. On or about March 21, 1988, you performed maintenance by performing an overhaul on the engine (Lycoming engine model 0-235-L2C, S/N L-14740-15) of civil aircraft N49839, a Cessna 152 and made an entry in the engine logbook of the work performed, your name, certificate number and your signature.
3. Your signature constituted approval for return to service of the engine for the work you performed.
4. At the time you returned the engine to service the engine was not in an airworthy condition due to the following discrepancies:

²The respondent was found to have violated Federal Aviation Regulation (FAR) sections 43.2(a)(1), 43.2(a)(2), 43.13(a), and 43.13(b) which cover faulty maintenance and 43.12(a)(1) which provides as follows:

"§ 43.12 Maintenance records: Falsification, reproduction, or alteration.

- (a) No person may make or cause to be made:
- (1) Any fraudulent or intentionally false entry in any record or report that is required to be made, kept, or used to show compliance with any requirement under this part."

³The respondent's certificate was suspended for 180 days on April 23, 1986 and for 365 days on May 29, 1986.

⁴The law judge found that there was insufficient evidence to support the allegations in subparagraphs (a), (b), and (h) of the Administrator's complaint.

- a. The crank case was unserviceable due to fretting corrosion on the mating surfaces at the number 1 and number 3 crankshaft main bearing saddle supports;
 - b. The unserviceable piston pins were not replaced with proper parts;
 - c. The crankshaft gear retaining bolt was not replaced with the proper part;
 - d. Both valves on cylinder three were improperly seated allowing substantial leakage;
 - e. The exhaust valve on cylinder 4 was improperly seated allowing substantial leakage;
 - f. A massive induction leak in the number 3 intake pipe existed because the pipe was not properly swaged to the engine case. You applied a room temperature vulcanizing (RTV) Silicone sealant, such as the type used in automobile applications to the pipe/case connection to repair the leak;
 - g. The distributor block on the left magneto was cracked;
 - h. Seven valves had improper clearance;
 - i. A large pit existed on the surface of the oil pump pad on the accessory cover.
5. The entry as described above in the engine logbook of maintenance performed was false in that the entry stated, ". . . installed all . . . new valve springs, and keepers . . ." when, in fact, you had not installed new valve springs and keepers.
 6. The entry as described above in the engine logbook of maintenance performed was false in that the entry stated, ". . . Engine was testrun . . ." when, in fact the engine was not testrun.
 7. The maintenance, as described above, was not performed in accordance with the AVCO Lycoming overhaul manual or service bulletins.
 8. You have a prior violation history in that your certificate has been suspended on two previous

occasions.

Respondent argues in his appeal⁵ that the logbook entry in which he stated that he made several repairs or replacements in the course of the overhaul was an honest mistake.⁶ He stated at the hearing that his secretary typed up the entry, and that he signed it without really being aware that it was incorrect.⁷ The law judge appears to have rejected that testimony.⁸

Respondent also argues that the law judge made several mistakes in her findings of fact pertaining to the maintenance performed. However, the contradictory testimony presented at the hearing indicates that the law judge's findings of fact are, to some degree, based on credibility determinations made during the hearing. There is nothing to show that these determinations were arbitrary or capricious. See *Administrator v. Lindsay*, NTSB Order No. EA-3168. In fact, the law judge made several findings

⁵The Administrator filed a brief in reply.

⁶Respondent notes that it was not to his benefit to say that he overhauled certain parts not required by the manufacturer. However, as we stated in *Administrator v. Olsen*, "Purpose . . . is irrelevant to our inquiry; we are aware of no cause that excuses a violation because no rational purpose for it was identified, and we are not sanguine about the effects such a policy would have on aviation safety."

⁷In order for a logbook entry to be intentionally false, there must be a false representation in reference to a material fact, and the respondent must have knowledge of its falsity. *Hart v. McLucas*, 535 F.2d 516 (9th Cir. 1976).

⁸In response to the respondent's argument that his secretary was supposed to delete the items that he did not perform from the standard logbook entry, the law judge specifically noted that boilerplate entries do not satisfy the intent of the Federal Aviation Regulations.

of fact in favor of the respondent, but found that enough discrepancies did exist to render the engine unairworthy.

Respondent's appeal does not challenge the law judge's findings on the Administrator's second charge of falsification. The law judge explicitly rejected respondent's testimony in which he said that he performed a test run on the engine. The law judge found that, contrary to respondent's logbook entry and testimony at the hearing, there had been no test run of the engine. Affirmation of this charge alone is sufficient to warrant the revocation of respondent's certificate.

After careful review of all the evidence on the record, we find that safety in air commerce or air transportation and the public interest require affirmation of the initial decision.

ACCORDINGLY, IT IS ORDERED THAT:

1. The respondent's appeal is denied;
2. The Administrator's order revoking respondent's mechanic certificate and the initial decision are affirmed.⁹

VOGT, Chairman, COUGHLIN, Vice Chairman, LAUBER, HART and HAMMERSCHMIDT, Members of the Board, concurred in the above opinion and order.

⁹For the purposes of this order, respondent must physically surrender his certificate to a representative of the Federal Aviation Administration pursuant to FAR § 61.19(f).